

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) BARBARA ANN WHITEMAN,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-22-486-G</u>
)	
(1) JOHN RYAN THEOBALT and)	
(2) LINDAMOOD HEAVY HAULING,)	
INC.,)	
)	
Defendants.)	

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants John Ryan Theobalt and Lindamood Heavy Hauling, Inc. (hereinafter “Defendants”) hereby file this Notice of Removal (“Notice”) of this case from the District Court of Oklahoma County, State of Oklahoma to this Court. In support of removal, Defendants state the following:

1. On May 12, 2022, Plaintiff Barbara Ann Whiteman (“Plaintiff”) filed a Petition in the District Court of Oklahoma County, State of Oklahoma, captioned Barbara Ann Whiteman, Plaintiff, v. John Ryan Theobalt and Lindamood Heavy Hauling, Inc., Defendants, Case Number CJ-2022-2241 (“State Court Action”). (*See* Petition, **Ex. 1**).

2. Plaintiff did not plead any facts regarding her citizenship in her Petition. Therefore, Defendants filed an Answer in the State Court Action prior to filing this Notice. (*See* Answer, **Ex. 2**).

3. Defendant Lindamood Heavy Hauling, Inc. served Plaintiff with Requests for Admission on June 2, 2022, to ascertain Plaintiff’s citizenship. Defendants received

Plaintiff's Answers to Lindamood's Heavy Hauling, Inc. First Requests for Admission on June 10, 2022. (*See* Plaintiff Whiteman's Answers to Defendant Lindamood Heavy Hauling, Inc.'s First Requests for Admission, **Ex. 3**).

4. In her Petition, Plaintiff seeks judgment in her favor and to be awarded a sum in excess of \$75,000.00 for actual damages. (*See* Petition, **Ex. 1**)

5. Plaintiff is a citizen of the State of Oklahoma. (*See* Plaintiff Whiteman's Answers to Defendant Lindamood Heavy Hauling, Inc.'s First Requests for Admission, **Ex. 3**).

6. Defendant John Ryan Theobalt is a citizen of the State of Texas.

7. Defendant Lindamood Heavy Hauling, Inc. is a Texas corporation with its principal place of business in Texas.

8. Because the amount in controversy exceeds \$75,000.00 and diversity exists among the parties, this case is properly removed within the applicable time constraints pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

9. The United States District Court for the Western District of Oklahoma is the appropriate court for filing the instant Notice of Removal, as it embraces the District Court of Oklahoma County, State of Oklahoma, where the State Court Action is currently pending.

10. Upon receiving the federally-filed Notice of Removal, Defendants will file a copy of the Notice of Removal with the District Court of Oklahoma County, State of Oklahoma, as well as provide written notice to Plaintiff's counsel, in accordance with 28 U.S.C. § 1446(d).

11. Pursuant to 28 U.S.C. § 1446 and LCvR 81.2(a), a copy of the docket sheet and a copy of the documents filed and/or served in the State Court Action are attached hereto. (See, Petition, Ex. 1; Answer, Ex. 2; Plaintiff Whiteman's Answers to Defendant Lindamood Heavy Hauling, Inc.'s First Requests for Admission, Ex. 3; State Court Action Docket Sheet, Ex. 4; Entry of Appearance of counsel for Barbara Ann Whiteman in State Court Action, Ex. 5).

12. Under the provisions of 28 U.S.C. § 1332, 1441, and 1446 and all other applicable statutes with which Defendants herein have fully complied, this cause of action is removable to the United States District Court for the Western District of Oklahoma.

13. In addition to the instant matter, there is a companion case already filed in the United States District Court for the Western District of Oklahoma captioned Cecil Wayne Gregory, Plaintiff, v. Lindamood Heavy Hauling, Inc. and John Ryan Theobalt, Defendants, Case Number 5:22-cv-00327-R. Once removal is effective, Defendants intend to move to consolidate the two actions for judicial efficiency.

Respectfully submitted,

s/Cody A. Reihs

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Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that on the 14th day of June, 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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s/Cody A. Reihs